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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/678,616 10/04/00 WEIL

M 20/168

EXAMINER

QM32/0829

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VII, I

ART UNIT

PAPER NUMBER

3764

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08/29/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/678,616

Applicant(s)

WEIL ET AL.

Examiner

Justine Yu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Drawings*

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "182" has been used to designate both "location" and "rivet", see figure 2. Correction is required.
3. The drawings are objected to because there are two figures being designated as "figure 1". In addition, in figure 3, the numeral "16" being pointed to the belt. Furthermore, the relationship between element "264" and the compression device is not shown, same as the element "260" in figure 3. Correction is required.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "saucer-shaped element" in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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*Specification*

5. The disclosure is objected to because of the following informalities: the Brief description of figure 4 is missing.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

6. Claims 3, 5, 6, 7, 9, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it is not clear which structural element being used to increase the pressure of fluid at a first rapid rate in the actuator and then decrease the pressure in the actuator at the second rate.

In claim 5, line 5 the term "belt" lacks antecedent basis.

In claim 6, line 8 the term "a cylinder" is confusing as to whether or not a new cylinder is being referred.

In claim 9, line 2 the term "any" is indefinite.

In claim 11, line 6, the term "a piston" is indefinite because the structure between the piston and the device can not be determined.

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***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hewson (Pat. No. 3,307,541).

Hewson teaches a resuscitator comprising an energizable compressor assembly having an actuator 14, a pressured fluid source 22, an elongated flexible hose 28, controlled valves (68, 62, 46, 48, 64), and a torso wrap 16.

Regarding claims 11 and 12, figures 1-3 of Hewson shows the same structure as claimed. It is inherent that Hewson's device would be able to perform the same method steps.

9. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Waide et al (Pat. No. 5,399,148).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waide et al.

Waide's stabilizer 3 lacks a saucer-shaped element. However, the feature of fabricate the stabilizer with a saucer-shaped element is considered as an obvious design choice, since it appears that Waide's stabilizer would perform equally well with a saucer-shaped element.

12. Claims 2, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson in view of Barkalow (Pat. No. 3,610,233) and Walsh (Pat. No. 5,936,765).

Regarding claim 2, Hewson teaches a cylinder 14 having a piston 52. Hewson does not explicitly disclose that the piston including a plurality of telescoping piston parts. However, Barkalow in figure 4 show a telescopic piston. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hewson's cylinder with a telescopic piston as taught by Barkalow, since it is a matter of design for art recognized equivalence. In addition, Walsh teaches a container including a plurality of telescopic sections (30, 40, see teaching in column 2, lines 24-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the modified Hewson's telescopic piston with a plurality of telescopic portions as taught by Walsh, so as to be able to increase the length of the piston.

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13. Claim 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson in view of Barkalow (Pat. No. 3,610,233).

Regarding claim 3, Hewson does not explicitly disclose the pressure of fluid being increased at a first rapid rate in the actuator and then decreased the pressure in the actuator at a second rate that is less than half of the first rate. However, Barkalow in column 6, lines 55-60 teaches that release of pressure should hold for a longer period than the application of pressure. Therefore, it would have been obvious to a skilled artisan to operate Hewson's device such that to increase the pressure of fluid in the actuator at a more rapid rate than to decrease the pressure in the actuator as taught by Barkalow in order to provide a better massaging effect. In addition, the feature of choosing a particular pressure decreasing rate such as less than half of the pressure increasing rate is considered as an obvious design choice, as is necessary and inherent upon various applications.

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson in view of Waide et al.

Hewson lacks a stabilizer. However, Waide teaches a stabilizer 3. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Hewson's device with a stabilizer as taught by Waide, in order to provide a support to the compression device.

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15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson.

Hewson teaches the torso wrap 16 including an eyelet coupled to a first side of the actuator and a band, see figure 1. Hewson does not explicitly disclose that the band having an end portion including a pair of Velcro pads. However, such feature is considered as an obvious design choice, since the band with Velcro pads is notoriously old and well known in the art.

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mencacci (Pat. No. 3,396,721), Woudenberg et al (Pat. NO. 4,664,098), Baldwin, II (Pat. No. 5,743,864), and Barkalow (Pat. No. 4,361,140) are cited to show different resuscitators. Wakayama (Pat. No. 6,056,164), Tontarelli (Pat. NO. 4,624,382) and Ha (Pat. NO. 4,602,728) are cited to show different telescopic mechanisms.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justine Yu whose telephone number is (703) 308-2675. The examiner can normally be reached on Tuesday - Friday from 8:30 AM - 6:00 PM. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Everett Williams whose telephone number is (703) 305-1708.

A handwritten signature in black ink, appearing to read 'J2' followed by a long horizontal stroke.

Justine Yu

August 25, 2001